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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,534	11/20/2003	Larry W. Simnacher	1170-9	7984
7590		04/04/2006	EXAMINER	
John S. Egbert		KRUER, STEFAN		
Harrison & Egbert		ART UNIT		
7th Floor		PAPER NUMBER		
412 Main Street		3654		
Houston, TX 77002		DATE MAILED: 04/04/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/717,534

Applicant(s)

SIMNACHER, LARRY W.

Examiner

Stefan Krueer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02/09/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21 - 37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 21 - 37 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. **Claims 21 - 29**, drawn to a storage body having a door, said storage body for a truck bed, a scissors lift, a linkage between the axles of the first and second scissors, first and second wheel members positioned on the first and second axles, said linkage received by said wheels, first and second gear arrangements, said gear arrangements comprising first and second worm gears that are driven by first and second worms and motors, classified in Class 296, Subclasses 37.6 and 181.5.
- II. **Claims 30 and 32**, drawn to a storage body having a door, said storage body for a truck bed, a scissors lift, a linkage between the axles of the first and second scissors, said linkage being a chain, and first and second wheels being sprockets that engage the linkage, classified in Class 224, Subclasses 494 and 543.
- III. **Claim 31**, drawn to a storage body having a door, said storage body for a truck bed, a scissors lift, a linkage between the axles of the first and second scissors, said linkage being a cable, classified in Class 224, Subclasses 494 and 543.
- IV. **Claims 34 - 36**, drawn to a lifting device, said lifting device having top and bottom plates, first and second scissors, first and second motors positioned at first and second scissors, respectively, axles engaged by said motors, linkage extending between said axles, first and second wheel members positioned at first and second axles respectively and receiving said linkage, and first and second gear arrangements mounted on said first and second axles, respectively, said gear arrangements driven by said motors, classified in Class 254, Subclasses 122 and 425.

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- V. **Claim 37**, drawn to a lifting device, said lifting device having top and bottom plates, first and second scissors, first and second motors positioned at first and second scissors, respectively, linkage extending between said scissors and engaged by said motors, and a spring connected to said scissors, classified in Class 254, Subclasses 122 and 425.

The inventions are distinct, each from the other because of the following reasons:

**Inventions I and II** are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, **Invention II**, as claimed does not require the particulars of the subcombination as claimed because the subcombination is limited to a scissors lift driven by a dual worm gear arrangement, whereas the combination is silent regarding the motive means of its scissors lift. The subcombination has separate utility such as a cargo conveyor or hoist in commercial aircraft, the maritime industry, etc.

**Inventions I and III** are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, **Invention III**, as claimed does not require the particulars of the subcombination as claimed because the subcombination is limited to a scissors lift driven by a dual worm gear arrangement, whereas the combination is silent regarding the motive means of its scissors lift. The subcombination has separate utility such as a cargo conveyor or hoist in commercial aircraft, the maritime industry, etc.

**Inventions I and IV** are directed to related inventions. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are

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either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, **Invention IV** is directed to a lifting device only, whereas **Invention I** addresses a vehicular storage device having a lifting means. Furthermore, **Invention IV**, has separate utility such as a lift for repair and refurbishment facilities of heavy industry.

**Inventions I and V** are directed to related inventions. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, **Invention V** is directed to a lifting device only, whereas **Invention I** addresses a vehicular storage device having a lifting means. Furthermore, **Invention V**, has separate utility such as a lift for automotive or other commercial and/or residential applications.

**Inventions II and III** are directed to related inventions. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, whereas both inventions are drawn to a vehicular storage device having a lifting means, the linkage of **Invention II** is a chain that engages sprockets of the axles, whereby the linkage of **Invention III** is a cable extending between the axles only. Furthermore, **Invention III**, has separate utility such as a lift for residential blinds, partitions, etc.

**Inventions II and IV** are directed to related inventions. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, **Invention IV** is directed to a lifting device, whereas **Invention II** addresses a vehicular storage device

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having a lifting means. Furthermore, **Invention IV**, has separate utility such as a lift for repair and refurbishment facilities of heavy industry.

**Inventions II and V** are directed to related inventions. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, **Invention V** is directed to a lifting device, whereas **Invention II** addresses a vehicular storage device having a lifting means. Furthermore, **Invention V**, has separate utility such as a lift for automotive or other commercial and/or residential applications.

**Inventions III and IV** are directed to related inventions. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, **Invention IV** is directed to a lifting device, whereas **Invention II** addresses a vehicular storage device having a lifting means. Furthermore, **Invention IV**, has separate utility such as a lift for repair and refurbishment facilities of heavy industry.

**Inventions III and V** are directed to related inventions. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, **Invention V** is directed to a lifting device, whereas **Invention II** addresses a vehicular storage device having a lifting means. Furthermore, **Invention V**, has separate utility such as a lift for automotive or other commercial and/or residential applications.

**Inventions IV and V** are directed to related inventions. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually

exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, whereas both inventions are drawn to a lifting device, the device of **Invention IV** has gear arrangements and wheel members, whereas the linkage of **Invention V** is a spring. Furthermore, **Invention V**, has separate utility such as a lift for residential blinds, partitions, etc.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, III, IV or V, restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions

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unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F, 09:00 - 18:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571.272.6951. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

SHK

10 Mar. 2006



**KATHY MATECKI  
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